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Approved For Release 2006/03/17 : CIA-RDP79T00912A001000010004-4

National
Foreign
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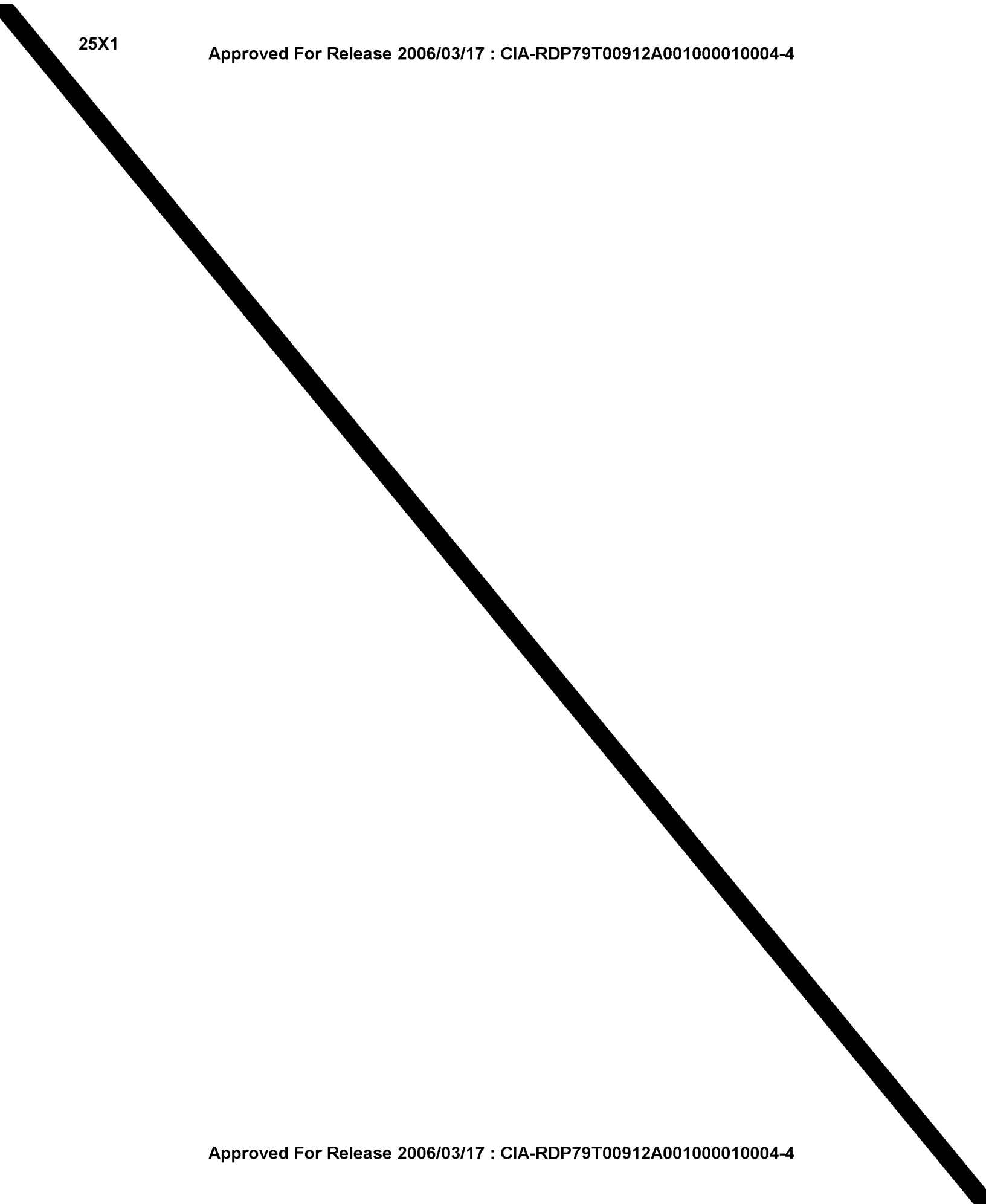
Latin America Review

28 September 1978

Secret

RP LAR 78-008
28 September 1978

Approved For Release 2006/03/17 : CIA-RDP79T00912A001000010004-4



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LATIN AMERICA REVIEW

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Chile: Pinochet's Anniversary Speech and the Constitutional Controversy

This study is based on the few provisions publicly available of the new Chilean constitution. The analysis of the impending constitutional plebiscite--a major step contemplated by the Pinochet regime in its transition to civilian government--is obviously tentative. When all of the draft constitution's provisions are released, a more complete and precise consideration will be possible.

In his speech marking the fifth anniversary of the overthrow of the Allende government on 11 September, President Pinochet outlined the latest and, as yet, most definite plans for the transition from military to civilian government. According to Pinochet, a new constitution, prepared under his guidance, would be submitted to voters next year, but elections would not be held until 1985. Initial reaction to the speech has focused on the long interval before civilian rule. Probably of greater significance, however, is the developing controversy over the Pinochet constitution, which differs markedly from Chile's 1925 constitution. Pinochet intends to submit the new constitution for approval in a national plebiscite, some possible outcomes of which could produce serious, even critical problems for the regime. Whether Chileans accept or reject the new charter, the Pinochet constitution and the opposition to it disclose once again the political consequences of the regime's perception of the profound cleavage in Chilean politics.

The Approach to a New Constitution

In his lengthy speech, often polemical in tone, Pinochet dealt with more than the transition to civilian rule. As he has in the past, he defended the legitimacy of the coup and the moral mandate of his military regime, reviewed its progress, highly praised its economic performance, and covered a wide range of domestic and international issues. He met head-on many of the past and present criticisms of his administration and its policies

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President Pinochet (white jacket) and junta members on fifth anniversary of the military coup

and boldly raised some thorny matters, most notably the Letelier case. All in all, it was a long and strongly worded defense of his embattled regime in its continuing struggle against the forces and ideologies allegedly manifested in the overthrown Allende administration. In that struggle, Pinochet claims to enjoy majority support against his opponents. His claim will be put to an important test when Chilean voters are given the chance to accept or reject the regime's constitution--a controversial document, one of whose major purposes is to prevent legally another Allende-type government.

According to Pinochet, the vote on the new constitution will begin a three-stage process leading to civilian rule:

-- In stage one, the Chilean people next year will be asked to approve the new constitution, drafted by experts chosen by the junta and prepared under Pinochet's guidance.

-- In stage two, lasting six years, Chile will be ruled by a transitional government in which political power will be shared with legislators appointed by the junta.

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-- In stage three, reached in 1985, a civilian government will be elected under the rules of the new constitution.

About the return to civilian rule, the regime perceives two imperatives: it must re-establish a civilian political system, and secondly, that system must be invulnerable to the political assaults of the forces and ideologies that caused the "trauma" of 1973.

The strong emotion behind the view that a "safe" constitution is a critical necessity was displayed in Pinochet's anniversary speech by his characterization of the Allende regime and his description of the circumstances surrounding its removal: "a totalitarian Marxist-Leninist oppression aimed at implementing a Communist tyranny. . . those who tried to annihilate forever the basic principles of Chilean nationality." This harsh rhetoric, which included the phrase "civil war," is meant to remind regime supporters of the irreconciliable differences between those who still support the deposed administration and those who approve its overthrow. In this "we" and "they" division, "they" cannot be simply regarded as an opposition party in a democratic system--"they" are the enemy, and a constitutional system must be constructed that will prevent them from coming to power.

The Constitutional Reform Committee at work

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As a consequence, the military regime has given considerable time and thought to the writing of the new constitution. For nearly five years, a Constitutional Reform Commission--appointed by the junta and guided by Pinochet--has labored on a draft. Many Chileans, including members of the opposition, would agree that the constitution of 1925 had serious weaknesses and needed revision, particularly to prevent the election of a president by a minority and to make it impossible for a chief executive to impose unconstitutional acts. Although there is little opposition to the writing of a new constitution, there has been considerable questioning of its specific terms. This controversy sharpened when the reform commission finally presented its 306-page draft to the military junta and details began to leak out. It is this basic document--with some revisions--that will be submitted to Chilean voters next year. As yet, the regime has refused to release the complete text, but some copies have evidently moved outside the inner circles, and sketchy newspaper accounts have appeared.

The Content of the Constitution

Although only general conclusions are now possible, the Pinochet constitution seems to be a mixed document, prepared with an eye to its acceptability by the Chilean people. It contains a great deal of the constitution of 1925, and it makes some unobjectionable revisions of former weaknesses. But it also goes beyond this to new concepts that are not likely to meet universal approval in Chile. It does not eliminate political parties in favor of corporatist representation, and it does not provide for the indirect election of the president--two rightwing possibilities that have been rejected. In the definitional jungle where these terms serve polemical purposes, it will certainly be labeled "democratic" and "anti-democratic," both inside and outside Chile.

At the national level, the new constitution provides for a government of limited powers separated between president, congress, and a Constitutional Tribunal. A fourth, specialized power also exists--a new institution called the Council of National Security, composed of the president, selected military leaders, and the presidents of the Senate, the Supreme Court, and the Central Bank.

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In a system of universal suffrage, the president--whose position is greatly strengthened vis-a-vis the legislature--is to be directly elected by a majority vote (made necessary by the provisions of a runoff election) for a single term of eight years. In a bicameral legislature, the Chamber of Deputies will number 150; with the probable but still-undecided abolition of the old proportional representation system, each deputy will represent a single-member district. The Senate will have 45 members, 30 directly elected nationwide and 15 appointed by the president or given automatic membership as ex-officeholders of high rank. The third branch of government, the Constitutional Tribunal, will have extensive and important powers including declaring laws unconstitutional; mediating conflicts between the president and congress; and judging whether words or deeds fall into one of the categories--like "totalitarian"--to be proscribed by the constitution. Most of its members, all lawyers, will be appointed by the Supreme Court, but some will be named by the president and the Senate. The Council of National Security, a kind of watchdog body, seems to have the power to investigate any individual, group, or authority whose actions it believes constitute a threat to the security of the nation.

Opposition may develop to some of these provisions, but it certainly will not be fundamental in nature. Sure to provoke strong controversy, however, is the new catchall provision that could be widely used to limit speech and action. Explicitly noting that it differs here from the more permissive constitution of 1925, the regime's new document forbids "any act by persons or groups intended to propagate doctrines aimed against the family, advocate violence or a totalitarian conception of society or of the state . . . or is founded in class war, or is against the dignity or the rights that emanate from human nature." Specific prohibitions of behavior under this provision would follow decisions of the Constitutional Tribunal. This extraordinarily broad language seems sure to enlarge the focus of the constitutional debate. Those who wrote this provision certainly intended it to proscribe the Chilean Communist and Socialist parties, but opponents can reasonably ask whether the provision

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could not be used to ban other parties as well. One argument to be made is that such a provision is simply not workable.

Further hostility to the new constitution will predictably be engendered by the rights it grants to private property and to the free enterprise system as well as the limitations it imposes on the rights of unions. The Pinochet regime is quite explicit in its disdain for the alleged statist economic failures of the two previous administrations and in its conviction that only a market economy can guarantee a prosperous Chile. It obviously intends to provide a constitutional advantage to its preferred economic system. In Chile, where leftist parties polled almost 44 percent of the vote in the 1973 congressional election, there are many partisans of strongly opposing viewpoints.

Although the right to form unions is clearly granted, they may not intervene in politics, and the right to strike is prohibited in public employment and in certain vital industries. In the rest of the private sector, labor unions must first go to compulsory bargaining and arbitration, and the right to strike does not seem to be unambiguously granted. This still seems to be a matter to be decided by a supplementary labor law or by constitutional interpretation. Through a number of provisions, the constitution tries to prevent the influence of political parties or other organizations, especially unions and professional groups.

Constitutional Controversy

This brief selection of a few elements of the available text cannot adequately summarize or interpret a complex document. What is politically significant is that parts of it have aroused considerable negative opinion. Complaints are being voiced not only about the substance of the regime's constitution but about the plebiscitary process to ratify it. A group of opposition experts, many of them Christian Democrats, has even begun to prepare an alternative constitution.

Taking note of the criticism, Pinochet has made explicit the regime's determination to stick to its stated

course. He pointed out that the present draft will be examined by a consultative body, the Council of State; following that, the junta will make a final analysis, and with the technical help of the Constitutional Reform Commission, it will approve the final product. Responding to those "who are worried about the course of the draft constitution," Pinochet said the government would "welcome every idea or suggestion aimed at improving it." Nevertheless, even if the regime is disposed to be fair and open to outside suggestions, it is extremely improbable that it will materially change the basic concepts of its constitution.

The regime will have a great deal riding on the coming plebiscite. When speaking of the transition stages, Pinochet seemed to assume that the new constitution would be ratified. If it is not, it would be a great source of embarrassment for the regime. Defeat of the carefully constructed "safe" constitution would imply approval for a more liberal one. In Pinochet's view, this could only lead to the acquisition of power by the type of enemy the military was forced to overthrow in 1973. Voter rejection of the regime's constitution could thus create a crisis for the Pinochet government more severe than anything it has yet had to face.

As yet, there are no signs the regime sees any great risk in permitting the plebiscite. It apparently believes it enjoys high civilian support, a perception perhaps colored by the success of its plebiscite victory last January. Then, 75 percent voted against the UN resolution condemning the human rights situation in Chile. Though the choice was forced upon the voters, the election seems to have been totally honest. It was also a great and unexpected victory for Pinochet, who spoke of the vote as "legitimizing" his regime. Pinochet's position in the forthcoming constitutional plebiscite will not be assisted by the nationalistic bias of the earlier vote, however, and a negative outcome is possible.

Even if the regime wins the plebiscite, but only by a small margin, problems will remain. Given only slight approval, what kind of legitimacy will the Chilean people accord to the new constitution and its political system?

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A big regime victory--say well over 60 percent--would leave Pinochet with the fewest problems, although the country's basic ideological split would still remain.

Somewhere in the voting process the regime may estimate that it is going to lose; it may then call off the election or try to win by fraudulent means. Either action would also cause serious difficulties.

At present, there can only be speculation on the outcome of the plebiscite. Many estimates--often contradictory--are made about regime support; all lack a solid, current basis. Thus, the vote will not only provide a severe test for the junta, but will also tell a great deal about the basic attitudes of the Chilean people after five years of military rule.

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Ecuador: Presidential Elections Back on Track

After 10 weeks of uncertainty, Ecuador's presidential elections appear back on track following a decision by top military leaders to ignore charges of widespread fraud in the initial round on 16 July. The decision substantially increases the likelihood that populist Jaime Roldos--opposed by many officers because of his close association with their archfoe Assad Bucaram--will become the country's next President.

A council of general officers--hurriedly convened on 26 September to review fraud charges made the previous evening by Supreme Electoral Tribunal president Arizaga--unanimously voted to continue the election process. The council accepted the resignations of members of the tribunal, indicated that replacements would be named, and announced that legislative elections would be held at the same time as the second presidential round. A date has not yet been set for the next round.

Arizaga's claims of fraud--which were largely trumped up--were part of a plot by Supreme Council member General Duran and Government Minister Jarrin to frustrate Roldos' drive for the presidency by canceling the elections.

Although the conspiracy had the support of a number of high-ranking officers, the Guayaquil oligarchy, and the conservative wing of the Radical Liberal Party, it was widely exposed in recent weeks by civilian political leaders and the media. [redacted] 25X1

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Although completion of the vote count by a new tribunal and the organization of legislative elections could provide time for further plotting, it appears that the major crisis of this election has now passed. It also seems likely that the voice of the Ecuadorean voters--who

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gave Roldos a 31-percent plurality in the first round and probably will back him overwhelmingly in the second--will ultimately be heard. [redacted] 25X1

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Castro's Visit to Ethiopia

Cuban President Fidel Castro visited the Soviet Union, Ethiopia, and Algeria on his first foreign trip of 1978. He also made an airport stop in Libya. During the evening of 11 September, while attending a Spanish Embassy reception hosted by visiting Prime Minister Suarez, the Cuban leader announced his "immediate" departure for Ethiopia. Castro apologized to Spanish newsmen for not being able to see Suarez off at the airport. (For security reasons, Castro's departures are usually announced after the fact by the Havana press.)

The Whistle Stops

Castro first stopped--briefly--at the airport in Moscow, where he talked with Soviet Premier Kosygin and party secretary Kapitonov. The Soviet press characterized their talks as "warm and friendly." This press report was the first indication that the Cuban delegation contained many high-level officials, including top foreign policy adviser Carlos Rafael Rodriguez. After his seven-day stay in Ethiopia, Castro made an unexpected stop of a few hours in Tripoli, where he and Colonel Qadhafi discussed Castro's Ethiopia trip--probably, including the Eritrea situation--and denounced the Camp David meeting. Although Castro and Qadhafi have had their differences in the past, the two leaders apparently patched up their quarrel last year, and Castro probably saw a convenient opportunity to join the anti-Sadat bandwagon by making an appearance in a radical Arab capital.

That same day, the Cuban President arrived in Algiers. He stayed long enough for a discussion and dinner with President Boumediene, with whom Castro has a good personal relationship. The Algerian leader's opinions are not always appreciated, but Castro seems to respect him and knows that he needs Boumediene's support to maintain his position within the nonaligned movement.

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In the past, the two have clashed over what Boumediene sees as Cuba's growing role in the polarization of Africa. The Algerian President has also complained that Cuba appears to be a stalking horse for Moscow. (Boumediene could not have been reassured of Cuba's independence of the Soviet Union when Carlos Rafael Rodriguez took off for Moscow from Algiers while the rest of Castro's party left for home.)

The Ethiopian Visit: The Main Event

On Castro's first visit to Ethiopia in March 1977, he failed to bring Ethiopia and Somalia to an agreement and was not able to prevent the war that erupted that summer. Cuban combat troops played a major role in the fighting in the Ogaden region, and we estimate that there are now between 15,000 and 16,000 Cuban troops in the country.

The Cuban President was the guest of honor at the festivities surrounding the fourth anniversary of the military overthrow of Haile Selassie. He was made an

Castro in Ethiopia with Colonel Mengistu

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honorary citizen of Addis Ababa, was given Ethiopia's highest decoration by Chairman Mengistu, and watched a military parade. When Mengistu addressed the crowd in Revolution Square, he put in a plug for two favorite Cuban political causes--evacuation of the US naval base at Guantanamo and independence for Puerto Rico--and made another gesture to Cuban and Soviet political sensitivities by being unusually critical of China.

The visit was a busy one for guests and hosts alike. The two leaders visited People's Militia training camps--where Cuban military instructors are stationed--as well as hospitals and village celebrations. They toured the sites of several joint Ethiopian-Cuban military successes during the Ogaden campaign, including the town of Jijiga, where the Ethiopians staged a large military exercise.

During the week-long visit, Castro and Mengistu probably discussed:

-- The future role of Cuban troops in Ethiopia. Mengistu is aware that the military situation in the southern part of Ethiopia is very fluid, but he also knows that Castro does not want Cuban combat soldiers to get involved in Eritrea. There have been rumors on the cocktail circuit in Addis Ababa that the Cubans have already withdrawn some troops from Ethiopia.

-- Plans for increasing Cuba's civilian aid to Ethiopia. Havana press, for example, reported a three-hour meeting devoted to strengthening cooperation in social services and economic/technical assistance.

Concurrently with the independence celebrations, Addis Ababa played host to an international conference focusing on the "struggle" of Arab and African peoples against "imperialism." Speaking to the opening session--with the coleaders of the Zimbabwe Patriotic Front, Robert Mugabe and Joshua Nkomo, in attendance--Castro told his audience that "it was not Cuba, but its accusers, who opposed a just solution in Zimbabwe, Namibia, and Africa generally." He and Mengistu later met with Mugabe and Nkomo to discuss how best to aid the Patriotic Front guerrillas.

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FOR THE RECORD

Peru:* The convocation of a civilian constituent assembly in July was a significant step in President Morales Bermudez's plan to return constitutional rule to the country by 1980. Despite some obstructions created by far-left assemblymen, this body will be able to draft a constitution that is acceptable to the ruling military. Further steps in the political transition may be delayed, however, until substantial progress is made in solving Peru's financial crisis. A full transition to civilian government is therefore unlikely much before the end of 1980, and because of the economic uncertainties facing Peru, even this timetable may be too optimistic.

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